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<u>Name</u>	<u>Firm/Company</u>	<u>Fax Number</u>	<u>Phone Number</u>
To: William Foster Chief, Regulations and Procedures Division	Alcohol and Tobacco Tax and Trade Bureau	(202) 927-8525	(202) 927-8210

From: Peter M. Brody

Comments:

RE: Notice of Proposed Rulemaking No. 40 – Santa Rita Hills

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Submitted By: Peter M. Brody

Phone: (202) 508-4612

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June 28, 2005

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BY FACSIMILE

William Foster, Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
Attn: Notice 40
P.O. Box 14412
Washington, DC 20044-4412

Re: Notice of Proposed Rulemaking No. 40:
Santa Rita Hills Viticultural Area Proposed Name Abbreviation to Sta. Rita Hills

Dear Mr. Foster:

On behalf of Viña Santa Rita, S.A., the following comments are submitted in support of the referenced proposal by the Alcohol and Tobacco Tax and Trade Bureau ("the Bureau") to modify the name of the Santa Rita Hills viticultural area to "Sta. Rita Hills."

Viña Santa Rita is a publicly traded Chilean company that has produced and sold wines in the United States under the brand name "Santa Rita" for more than 120 years. Since the Bureau first proposed to recognize the Santa Rita Hills viticultural area, Viña Santa Rita has believed that use of "Santa Rita Hills" as a viticultural area designation is likely to cause consumer confusion and will damage Viña Santa Rita's property rights and interests in its brand. Consequently, in response to that earlier proposal, Viña Santa Rita filed comments opposing recognition of a viticultural area under the name "Santa Rita Hills" and favoring consideration and adoption of an alternative name for the viticultural area.

In its final rule recognizing the Santa Rita Hills viticultural area, the Bureau acknowledged the similarities between the "Santa Rita" brand name and the name of the newly recognized viticultural area, but concluded that any consumer confusion could be addressed through private litigation with parties who used the Santa Rita Hills viticultural area designation on wine labels or in product advertisements. Prior to commencing any such action, however, Viña Santa Rita filed an action in federal court in Washington, D.C., seeking a temporary restraining order and preliminary injunction preventing the rule from taking effect. The court denied Viña Santa Rita this interim relief, but did not foreclose it from seeking permanent relief against the Bureau or

from seeking to enforce its trademark rights as against wineries that marketed wines using the Santa Rita Hills viticultural area.

Thereafter, Viña Santa Rita and a group of producers of wine and winegrapes in the new Santa Rita Hills viticultural area entered into negotiations over the use of that viticultural area designation. The result of that negotiation was an agreement pursuant to which, *inter alia*, those producers would seek a modification of the name of the viticultural area to "Sta. Rita Hills." Viña Santa Rita believed that such a name change would reduce, while not eliminating, the likelihood of consumer confusion arising from use of the viticultural area name.

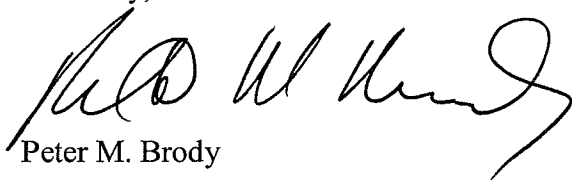
As agreed, the producers filed a petition seeking to change the viticultural area name to "Sta. Rita Hills." By letter from the undersigned to your predecessor, Thomas Crone, dated December 3, 2002, Viña Santa Rita stated its support for that petition and the name change requested in that petition.

For all the reasons stated in the producers' petition and in the present Notice, Viña Santa Rita also supports and welcomes the proposed modification of the name of the Santa Rita Hills viticultural area to "Sta. Rita Hills." Again, while Viña Santa Rita believes that this modification may not wholly eliminate the potential for consumer confusion arising from the use of the viticultural area, Viña Santa Rita does expect that the modification will significantly diminish that potential for confusion.

Viña Santa Rita wishes to commend the Bureau for its receptivity to the proposed modification of the viticultural area name and for responding to the legitimate concerns of both the producers and Viña Santa Rita in this fashion.

Although this firm does not represent any party other than Viña Santa Rita in connection with this rulemaking, we have been asked to transmit comments of the petitioners and one other interested party in support of the proposed modification of the viticultural area name. These comments are enclosed herewith.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Brody", written over a horizontal line.

Peter M. Brody

PMB:tme
Enclosures

MEMORANDUM

To: Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau

Attn: Notice 40

From: Petitioners

Re: Santa Rita Hills Viticultural Area Proposed Name Abbreviation to Sta. Rita Hills

Date: June 28, 2005

The following comments are submitted in support of the referenced Notice of Proposed Rulemaking (the "Notice") by those viticulturists and vintners (the "Petitioners") who jointly filed the petition for the modification of the name of the "Santa Rita Hills" American Viticultural Area to "Sta. Rita Hills" (the "Petition").

As more fully set forth in the Petition and in the Notice, the proposed name change is desirable and appropriate for the following reasons.

- The term "Sta." is a recognized abbreviation for the word "Santa," as evidenced by standard dictionaries of abbreviations. Historic evidence demonstrates the term "Sta. Rita" has been used as an abbreviation for the "Santa Rita Hills" region. Likewise, the abbreviation "Sta." has been used to refer to wines made from grapes grown in such well-known surrounding or nearby viticultural areas as Santa Barbara, Santa Barbara County, the Santa Cruz Mountains, and the Santa Maria Valley, as well as other California place names, such as Santa Barbara, Santa Clara, and Santa Rosa.
- The use of abbreviations in AVA names is not uncommon; TTB has recognized AVAs under names like "Mt. Veeder," "Mt. Harlan," "St. Helena," and "Isle St. George." The name "Sta. Rita Hills" fits comfortably within these precedents.
- The proposed name change will help to prevent any potential confusion between wines bearing the "Santa Rita Hills" appellation and wines bearing the pre-existing "Santa Rita" brand name owned by Viña Santa Rita, the Chilean wine producer. Modifying the AVA name would thus be consistent with TTB's policy of minimizing, when possible, the potential for consumer confusion between existing brand names and newly created AVAs. Modifying the AVA name as suggested above would accommodate Viña Santa Rita's brand and trademark rights without compromising the accuracy of the AVA's name.

- ATF previously has recognized AVAs under names different from those originally proposed or adopted in similar circumstances.

In short, modifying the name of the “Santa Rita Hills” AVA to “Sta. Rita Hills” is appropriate, consistent with TTB policy, and in the best interests of all interested parties, including consumers. For these reasons, the proposed rule should be promptly adopted and the name change effected.



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Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
Attn: Notice 40
P.O. Box 14412
Washington, DC 20044-4412

Re: 2003R-091P
Santa Rita Hills Viticultural Area Proposed Name Abbreviation to Sta. Rita Hills

The Santa Rita brand has been a leading brand in Chile for over 100 years. It was one of the first brands from Chile to establish a major market for Chilean wines in USA beginning about 30 years ago. We have imported Santa Rita for sixteen years. For most all of those years it has been the leading brand of Chilean wine sold in the USA in 750ml size with sales amounting to about 300,000 cases thus 3,600,000 bottles per year for the last several years. Thus the brand "Santa Rita" is a very well known. It is also considered among the finest wines available from Chile and certainly 'world-class'.

This new appellation for a California AVA using the same name only causes consumer confusion. The consumer may think that some of these Californian wines using the Santa Rita Hills AVA are actually from Chile or are blended with wine from Santa Rita of Chile. Or the American consumer may think that Santa Rita wines from Chile are actually not Chilean but Californian wines. Continuance of these confusions is pointless.

The proposal being considered and recommended by our firm as sole US importer of Santa Rita wines from Chile is to change the Californian AVA in name only, from "Santa Rita Hills" to "Sta. Rita Hills".

Many similar abbreviations to that suggested and agreed by the parties are in common use as AVA such as St. Helena, Mt. Veeder and Isle St. George. The proposed "Sta." is often utilized as the common and accepted abbreviation for "Santa".

Sincerely,

signed: Christopher W. Marshall

Christopher W. Marshall, Senior Vice President
Vineyard Brands, Inc.